

(2) STAR and all STAR Affiliates have complied with their respective substantive obligations with respect to all STAR Employee Benefit Plans (including, but not limited to, (i) filing or distributing all reports or notices required by ERISA or the Code and (ii) complying with all requirements of Part 6 of Title I of ERISA and Code Section 4980B) and have maintained the STAR Employee Benefit Plans in compliance with all applicable laws and regulations (including, but not limited to, ERISA and the Code), except where the failure to comply with such obligations would not result in a Material Adverse Effect on STAR. Each STAR Employee Benefit Plan that is intended to qualify under Code Section 401(a) has received a favorable determination letter (or other ruling indicating its tax-qualified status) from the IRS, and the IRS has not threatened or taken any action to revoke any favorable determination letter issued with respect to any such STAR Employee Benefit Plan. No statement, either oral or written, has been made by STAR or any STAR Affiliate (or any agent of either) to any Person regarding any STAR Employee Benefit Plans that is not in accordance with the terms of that plan that would have a Material Adverse Effect on STAR.

(3) STAR has made available to WAXS true, correct and complete copies of all of the current documents relating to the STAR Employee Benefit Plans, including, but not limited to: (i) all plan texts (including any subsequent amendments), trust instruments and other funding arrangements adopted or entered into in connection with each of the STAR Employee Benefit Plans; (ii) the notices and election forms used to notify employees and their dependents of their continuation coverage rights under group health plans (under Code Section 4980B(f) and ERISA Section 606), if applicable; and (iii) the most recent Form 5500 annual reports (including all schedules thereto), summary plan descriptions and favorable determination letters, if applicable, for Employee Benefit Plans. Since the date such documents were supplied to WAXS, no plan amendments have been adopted and no such amendments or changes shall be adopted or made prior to the Closing Date without WAXS's approval, except as required by applicable law after the date hereof.

(4) Neither STAR nor any STAR Affiliate has any agreement, arrangement, commitment or understanding to create any additional STAR Employee Benefit Plans or to continue, modify, change or terminate any existing STAR Employee Benefit Plans that could have a Material Adverse Effect on STAR.

(5) None of the STAR Employee Benefit Plans (i) is currently under investigation, audit or review by the U.S. Department of Labor, the IRS, the Pension Benefit Guaranty Corporation or any other federal or state agency or (ii) is liable for any federal, state, local or foreign taxes that would have a Material Adverse Effect on STAR. Except for such liabilities that would not have a Material Adverse Effect on STAR, there is no transaction in connection with which STAR or any STAR Affiliate could be subject to either a civil penalty assessed pursuant to ERISA Section 502, a tax imposed by Code Section 4975 or liability for a breach of fiduciary responsibility under ERISA.

(6) Other than routine claims for benefits payable to participants or beneficiaries in accordance with the terms of the STAR Employee Benefit Plans, or relating to qualified domestic relations orders (as defined in Section 414(p) of the Code), there are no claims, pending or threatened, by any participant or beneficiary against any of the STAR Employee Benefit Plans or any fiduciary of any of the STAR Employee Benefit Plans that could have a Material Adverse Effect on STAR.

(7) Neither STAR nor any STAR Affiliate has at any time maintained, sponsored or contributed to any "pension plan" as defined in ERISA Section 3(2) which is subject to Title IV of ERISA or contributed to any pension plan which is a "multiemployer plan" as defined in ERISA Section 3(37)(A).

(8) Section 3.2(j)(8) of the STAR Disclosure Schedule sets forth a list of all agreements, arrangements, commitments and STAR Employee Benefit Plans, under which (i) any benefits will be increased, (ii) the vesting or exercisability of benefits will be accelerated, (iii) amounts will become immediately payable, and/or (iv) the immediate funding for any benefits is required, upon the occurrence of the transaction contemplated by this Agreement. Section 3.2(j)(8) of the STAR Disclosure Schedule sets forth an estimate of the total value and/or cost of any such change in control benefits and/or funding and the time periods in which such payments must be made and/or funding obligations must be met, including but not limited to the value and/or costs of any gross up payments for tax purposes.

(9) To the Knowledge of STAR, no key employee, or group of employees of STAR has any plans to terminate employment with STAR other than employees with plans to retire. STAR has complied in all material respects with all laws relating to the employment of labor, including provisions thereof relating to wages, hours and equal opportunity, and it does not have any material labor relations problems (including threatened or actual strikes or work stoppages or material grievances).

(10) Neither STAR nor any of its Subsidiaries is a party to any collective bargaining agreement.

(k) Intellectual Property. Except as would not have a Material Adverse Effect on STAR: (i) STAR and each of its Subsidiaries owns, or is licensed to use (in each case, free and clear of any Liens, or claims of rights therein by any third party), all Intellectual Property used in or necessary for the conduct of its business as currently conducted, (ii) the use of any Intellectual Property by STAR and its Subsidiaries does not infringe on or otherwise violate the rights of any Person and is in accordance with any applicable license pursuant to which STAR or any Subsidiary acquired the right to use any Intellectual Property; (iii) to the Knowledge of STAR, no Person is challenging, infringing on or otherwise violating any right of STAR or any of its Subsidiaries with respect to any Intellectual Property owned by and/or licensed to STAR or its Subsidiaries; and (iv) neither STAR nor any of its Subsidiaries has received any written notice of any pending claim with respect to any Intellectual Property used by STAR and its Subsidiaries and to STAR's Knowledge, no Intellectual Property owned and/or licensed by STAR or its Subsidiaries is being used or enforced

in a manner that would result in the abandonment, cancellation or unenforceability of such Intellectual Property.

(l) Brokers or Finders. No agent, broker, investment banker, financial advisor or other firm or Person is or will be entitled to any broker's or finder's fee or any other similar commission or fee in connection with any of the transactions contemplated by this Agreement, based upon arrangements made by or on behalf of STAR except Deutsche Bank Alex Brown (the "STAR Financial Advisor"), whose fees and expenses will be paid by STAR in accordance with STAR's agreement with such firm, a copy of which has been, or will be promptly when available, provided to WAXS.

(m) Opinion of STAR Financial Advisor. STAR has received the opinion of the STAR Financial Advisor, dated the date of this Agreement, to the effect that as of such date, the Merger Consolidation is fair, from a financial point of view, to STAR and its stockholders, a copy of which has been provided to WAXS.

(n) Taxes.

(1) (i) All material Tax Returns of STAR and each of its Subsidiaries have been filed, or requests for extensions have been timely filed and have not expired; (ii) all Tax Returns filed by STAR and its Subsidiaries are complete and accurate in all material respects; (iii) all Taxes shown to be due on such Tax Returns or on subsequent assessments with respect thereto have been paid or the STAR SEC Reports reflect that adequate reserves have been established for the payment of such Taxes, and no other material Taxes are payable by STAR and its Subsidiaries with respect to items or periods covered by such Tax Returns (whether or not shown on or reportable on such Tax Returns) or with respect to any period prior to the date of this Agreement; (iv) STAR and each of its Subsidiaries have disclosed on its federal income Tax Return all positions taken therein that could give rise to a substantial understatement of income Tax within the meaning of Section 6662 of the Code; (v) there are no material liens on any of the assets of STAR or any of its Subsidiaries with respect to Taxes, other than liens for Taxes not yet due and payable or for Taxes that STAR or any of its Subsidiaries is contesting in good faith through appropriate proceedings and for which the STAR SEC Reports reflect that appropriate reserves have been established; (vi) no power of attorney to deal with Tax matters or waiver or extension of any statute of limitations with respect to Taxes has been granted by STAR or any of its Subsidiaries; and (vii) there is no (X) audit, examination, deficiency or refund litigation or matter in controversy with respect to any Taxes of STAR and its Subsidiaries nor (Y) has the IRS nor any other Tax authority asserted any claim for Taxes in writing, or to the knowledge of STAR, is threatening to assert any claim for Taxes, that might reasonably be expected to result in a Tax determination which would have a Material Adverse Effect on STAR.

(2) [INTENTIONALLY OMITTED.]

(3) There are no contracts, agreements, plans or arrangements, including but not limited to the provisions of this Agreement, covering any employee or former employee of STAR or any of its Subsidiaries that, individually or collectively, could give rise to the payment of any amount (or portion thereof) that would not be deductible pursuant to Sections 280G, 404, or 162 of the Code.

(4) Neither STAR nor any of its Subsidiaries is a party to (A) a Tax Sharing Agreement, (B) transactions which have produced deferred intercompany gains, losses or other intercompany items or excess loss accounts (within the meaning of Treas. Reg. § 1.1502-13 or 1.1502-19, respectively, or any predecessor regulations or any comparable items for state, local or non-United States Tax purposes), or (C) any joint venture, partnership, limited liability company or other arrangement or contract that should be treated as a partnership for federal income Tax purposes or as to which, an election has been made under Treas. Reg. § 301.7701-3 to have the entity disregarded for federal income Tax purposes as an entity separate from its owner.

(5) None of STAR and its Subsidiaries (A) has or has had operations or assets outside the United States taxable as a "branch" by the United States or as a "permanent establishment" by any foreign country, (B) has received written notice of any claim made by a Tax authority in a jurisdiction where STAR or any of its Subsidiaries does not file Tax Returns that it is or may be subject to Taxes in such jurisdiction, (C) does business in or derives income from any state, local territorial or non-United States taxing jurisdiction other than those for which Tax Returns have been filed and made available to WAXS pursuant to Section 3.2 (n)(6) hereof, (D) is a "passive foreign investment company" within the meaning of the Code, (E) has participated in or cooperated with an international boycott or has been requested to do so in connection with any prior transaction or the transactions contemplated by this Agreement, and (F) has availed itself of any Tax amnesty, Tax holiday or similar relief in any jurisdiction.

(6) STAR has made available to WAXS true copies of (A) all material Tax Returns that STAR or its Subsidiaries have filed since January 1, 1994 and (B) all material correspondence, including without limitation, closing agreements, private letter rulings, advance pricing agreements and gain recognition agreements and other written submissions to or communications with any Tax authorities.

(o) Certain Contracts. Neither STAR nor any of its Subsidiaries is a party to or bound by (i) any "material contract" (as such term is defined in Item 601(b)(10) of Regulation S-K of the SEC), (ii) any noncompetition agreement or any other agreement or arrangement that limits or otherwise restricts STAR or any of its Subsidiaries or any successor thereto or that would, after the Effective Time, limit or restrict WAXS or the Surviving Corporation or any of its affiliates or any successor thereto, from engaging or competing in any line of business or in any geographic area, which agreement or arrangement would have a Material Adverse Effect on WAXS or the Surviving Corporation, (iii) any agreement or arrangement between STAR or any of its Subsidiaries, on the one hand, and any affiliates, directors or officers of STAR or its Subsidiaries, on the other hand, that is

not on arm's-length terms or (iv) any agreement or arrangement that may require the payment of money or provision of services in excess of \$500,000 annually or \$1,000,000 over the term of such agreement or arrangement. All contracts filed with the STAR SEC Reports and the contracts listed on Section 3.2(o) of the STAR Disclosure Schedule are valid binding and are in full force and effect and enforceable in accordance with their respective terms, except to the extent that such enforceability may be subject to applicable bankruptcy, insolvency, moratorium, reorganization, or other laws affecting the enforcement of creditors' rights generally or by general equitable principles, and other than such contracts which by their terms are no longer in force or effect. Neither STAR nor its Subsidiaries are in violation or breach of or default under any such contract, nor to STAR's Knowledge, is any other party to any such contract in violation or breach or other default under any such contract, except for any such violation, breach or default which would not have a Material Adverse Effect on STAR.

## ARTICLE IV

### COVENANTS RELATING TO CONDUCT OF BUSINESS

4.1 Covenants of STAR. During the period from the date of this Agreement and continuing until the Effective Time, STAR agrees as to itself and its Subsidiaries that (except as expressly required, contemplated or permitted by this Agreement or the STAR Disclosure Schedule or as required by a Governmental Entity of competent jurisdiction or any law or regulation or to the extent that WAXS shall otherwise consent in writing, which consent shall not be unreasonably withheld, delayed or conditioned):

(a) Ordinary Course. STAR and its Subsidiaries shall carry on their respective businesses in the usual, regular and ordinary course in all material respects, in substantially the same manner as heretofore conducted, and shall use all reasonable efforts to preserve intact their present lines of business, maintain their rights and franchises and preserve their relationships with customers, suppliers and others having significant business dealings with them.

(b) Dividends; Changes in Share Capital. STAR shall not, and shall not permit any of its Subsidiaries to, and shall not propose to, (i) declare or pay any dividends on or make other distributions in respect of any of its capital stock, except for dividends by wholly owned Subsidiaries of STAR, (ii) split, combine or reclassify any of its capital stock or issue or authorize or propose the issuance of any other securities in respect of, in lieu of or in substitution for, shares of its capital stock, except for any such action by a wholly owned Subsidiary of STAR which remains a wholly owned Subsidiary after consummation of such transaction, or (iii) repurchase, redeem or otherwise acquire any shares of capital stock of STAR or any of its Subsidiaries or any securities convertible into or exercisable for any shares of such capital stock except for the purchase from time to time by STAR of STAR Common Stock in the ordinary course of business consistent with past practice in connection with the STAR Employee Benefit Plans.

(c) Issuance of Securities. STAR shall not, and shall not permit any of its Subsidiaries to, issue, deliver or sell, or authorize or propose the issuance, delivery or sale of, any shares of its capital stock of any class, any STAR Voting Debt or any securities convertible into or exercisable for, or any rights, warrants or options to acquire, any such shares or STAR Voting Debt, or enter into any agreement with respect to any of the foregoing, other than (i) the issuance of STAR Common Stock upon the exercise of STAR Stock Options or in connection with other stock-based Benefits Plans outstanding on the date hereof, in each case in accordance with their present terms, or (ii) issuances by a wholly-owned Subsidiary of STAR of capital stock to such Subsidiary's parent or another wholly-owned subsidiary of STAR.

(d) Governing Documents. Except to the extent required by the rules and regulations of the Nasdaq, neither STAR nor any of its Subsidiaries shall amend or propose to amend their respective certificates of incorporation, by-laws or other governing documents.

(e) Acquisitions. STAR shall not, and shall not permit any of its Subsidiaries to acquire or agree to acquire, by merging or consolidating with, or by purchasing a substantial equity interest in or a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, association or other business organization or division thereof or otherwise acquire or agree to acquire any assets (other than the acquisition of assets used in the operations of the business of STAR and its Subsidiaries in the ordinary course).

(f) Sales. Except as set forth in Section 4.1(f) of the STAR Disclosure Schedule, STAR shall not, and shall not permit any of its Subsidiaries to, sell or agree to sell by merging or consolidating with, or by selling or substantial equity interest in or a substantial portion of the assets of, or by any other manner, any business or any corporation, partnership, association or other business organization or division thereof or otherwise sell or agree to sell any assets (other than the sale of assets used in the operations of the business of STAR and its Subsidiaries in the ordinary course; provided, however, STAR may enter into a definitive agreement for (and consummate) the PT-1 Sale on terms and conditions which would satisfy the condition set forth in Section 6.2(h) hereof).

(g) Investments; Indebtedness. STAR shall not, and shall not permit any of its Subsidiaries to, (i) make any loans, advances or capital commitments to, or investments in, any other Person, other than (x) by STAR or a Subsidiary of STAR to or in STAR or in any Subsidiary of STAR or (y) pursuant to any contract or other legal obligation of STAR or any of its Subsidiaries existing at the date hereof or (ii) create, incur, assume or suffer to exist any indebtedness, issuances of debt or securities, guarantees, loans or advances not in existence as of the date hereof except pursuant to credit facilities, indentures and other arrangements in existence on the date hereof or in the ordinary course of business consistent with past practice, in each case as such credit facilities, indentures and other arrangements may be amended, extended, modified, refunded, renewed or refinanced after the date hereof.

(h) Compensation. Other than as contemplated by Section 4.1(h) of the STAR Disclosure Schedule, STAR shall not increase the amount of compensation of any director or

executive officer except in the ordinary course of business consistent with past practice or as required by an existing agreement, make any increase in or commitment to increase any employee benefits, issue any additional STAR Stock Options, adopt or make any commitment to adopt any additional employee benefit plan or make any contribution, other than regularly scheduled contributions, to any Employee Benefit Plan.

(i) Accounting Methods; Income Tax Matters. STAR shall not change its methods of accounting in effect on December 31, 1998, except as required by changes in GAAP as concurred in by STAR's independent auditors. STAR shall not (i) change its fiscal year, (ii) make any material tax election, (iii) adopt or change any Tax accounting method, (iv) enter into any closing agreement, (v) settle or compromise a Tax liability with a Tax authority, (vi) surrender any right to claim a refund of Taxes, or (vii) take (or permit any Subsidiary of STAR to take) any other action which would have the effect of materially increasing the Tax liability or materially decreasing any Tax Asset of STAR or any of its Subsidiaries, other than in the ordinary course of business consistent with past practice.

(j) Certain Agreements. STAR shall not, and shall not permit any of its Subsidiaries to, enter into any agreement or arrangement that limits or otherwise restricts STAR or any of its Subsidiaries or any of their respective affiliates or any successor thereto, or that could, after the Effective Time, limit or restrict WAXS or the Surviving Corporation or any of their respective affiliates or any successor thereto, from engaging or competing in any line of business or, in any geographic area which agreement or arrangement would reasonably be expected to have a Material Adverse Effect on WAXS or the Surviving Corporation.

(k) Other Actions. Notwithstanding the fact that STAR may take certain actions as permitted under Article IV hereof, STAR agrees not to take any action which could reasonably be expected to cause the Merger to fail to qualify as a reorganization within the meaning of Section 368(a) of the Code.

(l) Litigation. STAR shall not and shall not permit any of its Subsidiaries to settle or, compromise any litigation, except where the amount paid or payable, in each case, does not exceed \$200,000.

4.2 Control of STAR's Business. Except as provided in Section 5.9, nothing contained in this Agreement shall give WAXS, directly or indirectly, the right to control or direct STAR's operations prior to the Effective Time. Prior to the Effective Time, STAR shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its operations.

## ARTICLE V

### ADDITIONAL AGREEMENTS

#### 5.1 Preparation of Proxy Statement: Stockholders Meetings.

(a) As promptly as reasonably practicable following the date hereof, WAXS and STAR shall prepare (in form and substance reasonably satisfactory to each of WAXS and STAR) and file with the SEC proxy materials which shall constitute the joint proxy statement and prospectus in connection with the WAXS Stockholders Meeting and the STAR Stockholders Meeting (such proxy statement and prospectus, and any amendments or supplements thereto, the "Joint Proxy Statement/Prospectus") and WAXS shall prepare (in form and substance reasonably satisfactory to each of WAXS and STAR) and file a registration statement on Form S-4 with respect to the issuance of WAXS Common Stock in the Merger (the "Registration Statement"). The Joint Proxy Statement/Prospectus will be included in and will constitute a part of the Registration Statement as WAXS's prospectus. The Registration Statement and the Joint Proxy Statement/Prospectus shall comply as to form in all material respects with the applicable provisions of the Securities Act and the Exchange Act and the rules and regulations thereunder. Each of WAXS and STAR shall use reasonable efforts to have the Registration Statement declared effective by the SEC as promptly as reasonably practicable after filing with the SEC and to keep the Registration Statement effective as long as is necessary to consummate the Merger and the actions contemplated thereby. WAXS and STAR shall, as promptly as practicable after receipt thereof, provide the other party copies of any written comments and advise the other party of any oral comments, with respect to the Joint Proxy Statement/Prospectus received from the SEC. WAXS will provide STAR with a reasonable opportunity to review and comment on any amendment or supplement to the Registration Statement prior to filing such with the SEC, and will provide STAR with a copy of all such filings made with the SEC. Notwithstanding any other provision herein to the contrary, no amendment or supplement (including by incorporation by reference) to the Joint Proxy Statement/Prospectus or the Registration Statement shall be made without the approval of both parties, which approval shall not be unreasonably withheld or delayed; provided, that with respect to documents filed by a party which are incorporated by reference in the Registration Statement or Joint Proxy Statement/Prospectus, this right of approval shall apply only with respect to information relating to the other party or its business, financial condition or results of operations. WAXS will use reasonable efforts to cause the Joint Proxy Statements/Prospectus to be mailed to WAXS's stockholders, and STAR will use reasonable efforts to cause the Joint Proxy Statement/Prospectus to be mailed to STAR's stockholders, in each case as promptly as practicable after the Registration Statement is declared effective under the Securities Act. WAXS shall also take any action (other than qualifying to do business in any jurisdiction in which it is not now so qualified or to file a general consent to service of process) required to be taken under any applicable state securities laws in connection with the issuance of WAXS Common Stock and STAR shall furnish all information concerning STAR and the holders of STAR Common Stock as may be reasonably requested in connection with any such action. Each party will advise the other party, promptly after it receives notice thereof, of the time when the Registration Statement has become effective, the issuance of any stop order, the suspension of the qualification of the WAXS Common Stock issuable in connection with the Merger for offering



or sale in any jurisdiction, or any request by the SEC for amendment of the Joint Proxy Statement/Prospectus or the Registration Statement. If at any time prior to the Effective Time any information relating to WAXS or STAR, or any of their respective affiliates, officers or directors, should be discovered by WAXS or STAR which should be set forth in an amendment or supplement to any of the Registration Statement or the Joint Proxy Statement/Prospectus so that any of such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the party which discovers such information shall promptly notify the other party hereto and, to the extent required by law, rules or regulations, an appropriate amendment or supplement describing such information shall be promptly filed with the SEC and disseminated to the stockholders of WAXS and STAR.

(b) Subject to Section 5.4, STAR shall, as promptly as reasonably practicable following the execution of this Agreement, duly take all lawful action to call, give notice of, convene and hold a meeting of its stockholders (the "STAR Stockholders Meeting") (which meeting the parties intend to be held no later than thirty (30) days following the date on which the Registration Statement has been declared effective by the SEC) for the purpose of obtaining the Required STAR Vote with respect to the actions contemplated by this Agreement and shall take all lawful action to solicit the adoption of this Agreement by the Required STAR Vote. Subject to Section 5.4, the Board of Directors of STAR shall recommend adoption of this Agreement by the stockholders of STAR to the effect as set forth in Section 3.2(f), and shall not withdraw, modify or materially qualify in any manner adverse to WAXS such recommendation or take any action or make any statement in connection with the STAR Stockholders Meeting materially inconsistent with such recommendation (collectively, an "Adverse Change in the STAR Recommendation"); provided, however, that the foregoing shall not prohibit accurate disclosure of factual information regarding the business, financial condition or results of operations of WAXS or STAR or the fact that an Acquisition Proposal has been made, the identity of the party making such proposal or the material terms of such proposal (provided, that the Board of Directors of STAR does not withdraw, modify or materially qualify in any manner adverse to WAXS its recommendation) in the Registration Statement or the Joint Proxy Statement/Prospectus, to the extent such information, facts, identity or terms is required to be disclosed therein under applicable law.

(c) WAXS shall, as promptly as reasonably practicable following the execution of this Agreement, duly take all lawful action to call, give notice of, convene and hold a meeting of its stockholders (the "WAXS Stockholders Meeting") (which meeting the parties intend to be held no later than thirty (30) days following the date on which the Registration Statement has been declared effective by the SEC) for the purpose of obtaining the Required WAXS Vote with respect to the transactions contemplated by this Agreement and shall take all lawful action to solicit the approval of the transactions contemplated hereby by the Required WAXS Vote. The Board of Directors of WAXS shall recommend approval of the transactions contemplated hereby by the stockholders of WAXS to the effect as set forth in Section 3.1(f), and shall not withdraw, modify or materially qualify in any manner adverse to STAR such recommendation or take any action or make any statement in connection with the WAXS Stockholders Meeting materially inconsistent with

such recommendation; provided, however, that the foregoing shall not prohibit accurate disclosure of factual information regarding the business, financial condition or operations of WAXS or STAR.

5.2 Access to Information. Upon reasonable notice, each of STAR and WAXS shall (and shall cause its Subsidiaries to) afford to the officers, employees, accountants, counsel, financial advisors and other representatives of the other party hereto reasonable access during normal business hours, during the period prior to the Effective Time, to all its properties, books, contracts, commitments, records, officers and employees and, during such period, each of STAR and WAXS shall (and shall cause its Subsidiaries to) furnish promptly to the other party hereto (a) a copy of each report, schedule, registration statement and other document filed, published, announced or received by it during such period pursuant to the requirements of federal or state securities laws, as applicable (other than documents which such party is not permitted to disclose under applicable law), and (b) consistent with its legal obligations, all other information concerning it and its business, properties and personnel as such other party may reasonably request; provided, however, that either STAR or WAXS may restrict the foregoing access to the extent that any law, treaty, rule or regulation of any Governmental Entity applicable to such party requires such party or its Subsidiaries to restrict access to any properties or information. The parties will hold any such information which is non-public in confidence to the extent required by, and in accordance with, the provisions of the Confidentiality Agreement, dated December 17, 1999, between STAR and WAXS (the "Confidentiality Agreement"). Any investigation by WAXS or STAR shall not affect the representations and warranties made herein of STAR or WAXS, as the case may be.

5.3 Reasonable Efforts.

(a) Subject to the terms and conditions of this Agreement, each party will use reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable under applicable laws and regulations to consummate the Merger and the other transactions contemplated by this Agreement as soon as practicable after the date hereof, including (i) preparing and filing as promptly as practicable all documentation to effect all necessary applications, notices, petitions, filings, and other documents and to obtain as promptly as practicable all consents, waivers, licenses, orders, registrations, approvals, permits and authorizations necessary or advisable to be obtained from any third party and/or any Governmental Entity in order to consummate the Merger or any of the other transactions contemplated by this Agreement and (ii) taking all reasonable steps as may be necessary to obtain all such material consents, waivers, licenses, registrations, permits, authorizations, tax rulings, orders and approvals. The parties each shall keep the other apprised of the status of matters relating to completion of the transactions contemplated hereby, including promptly furnishing the other with copies of notices or other communications received by it or any of its Subsidiaries or affiliates from any Governmental Entity or third party with respect to the Merger or any of the other transactions contemplated by this Agreement, in each case, to the extent permitted by law or regulation or any applicable confidentiality agreements existing on the date hereof.

(b) Promptly following execution of this Agreement, STAR and WAXS shall promptly prepare and file any required notifications with the United States Department of Justice and

the Federal Trade Commission as required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended (the "HSR Act"). The parties shall cooperate with each other in connection with the preparation of such notifications and related matters, including sharing information concerning sales and ownership and such other information as may be needed to complete such notification, and providing a copy of such notifications to the other prior to filing; provided, that WAXS and STAR shall have the right to redact any dollar revenue information from the copies of such notifications provided to the other parties. The parties shall keep all information about the other obtained in connection with the preparation of such notification confidential pursuant to the terms of the Confidentiality Agreement. Each Person shall pay the filing fee required under the regulations promulgated pursuant to the HSR Act with respect to its own filing thereunder.

5.4 Acquisition Proposals. Without the prior written consent of WAXS, pending the Effective Time or earlier termination of this Agreement pursuant to Section 7.1, STAR agrees that neither it nor any of its Subsidiaries shall, and that it shall use its reasonable efforts to cause its employees, officers, directors, affiliates, agents and representatives (including any investment banker, financial advisor, attorney or accountant retained by any of them) not to, directly or indirectly, initiate, solicit, encourage or knowingly facilitate (including by way of furnishing information or engaging in discussions or negotiations) any inquiries or the making of any proposal or offer with respect to a merger, reorganization, share exchange, consolidation, business combination, recapitalization, liquidation, dissolution or similar action involving STAR, or any purchase or sale of a material portion of the assets of (including stock of Subsidiaries) of STAR, taken as a whole, or any purchase or sale of, or tender or exchange offer for, a material portion of the equity securities of STAR (any such proposal or offer being hereinafter referred to as an "Acquisition Proposal"). STAR further agrees that neither it nor any of its Subsidiaries shall, and that it shall use its reasonable efforts to cause it and its Subsidiaries' officers, directors, affiliates, employees, agents and representatives (including any investment banker, financial advisor, attorney or accountant retained by it or any of its Subsidiaries) not to, directly or indirectly, have any discussion with or provide any confidential information or data to any Person relating to an Acquisition Proposal, or engage in any negotiations concerning an Acquisition Proposal, or knowingly facilitate any effort or attempt to make or implement an Acquisition Proposal or accept an Acquisition Proposal. STAR agrees that it and its Subsidiaries will, and will cause its officers, directors, affiliates, employees, agents and representatives to, immediately cease and cause to be terminated any activities, discussions or negotiations existing as of the date of this Agreement with any parties conducted heretofore with respect to any Acquisition Proposal. STAR agrees that it will promptly inform its directors, officers, affiliates, key employees, agents and representatives of the obligations undertaken in this Section 5.4. Notwithstanding anything contained in this Section 5.4 or otherwise in this Agreement to the contrary, STAR or its Board of Directors shall be permitted to (A) in response to an unsolicited bona fide written Acquisition Proposal by any Person, recommend approval of such an unsolicited bona fide written Acquisition Proposal to its stockholders or effect an Adverse Change in the STAR Recommendation or (B) engage in any discussions or negotiations with, or provide any information to, any person in response to an unsolicited bona fide written Acquisition Proposal by any such Person, if and only to the extent that, in any such case as is referred to in clause (A) or (B), (i) the STAR Stockholders Meeting shall not have occurred, (ii) its Board of Directors (x) in the case of clause (A) above, concludes in good faith

that such Acquisition Proposal constitutes a Superior Proposal (as defined in Section 8.12) and terminates this Agreement pursuant to Section 7.1 (h) or (y) in the case of clause (B) above concludes in good faith that such Acquisition Proposal could reasonably be expected to result in a Superior Proposal, (iii) prior to providing any information or data to any Person in connection with an Acquisition Proposal by any such Person, its Board of Directors receives from such Person an executed confidentiality agreement containing confidentiality terms at least as stringent as those contained in the Confidentiality Agreement, and (iv) prior to providing any information or data to any Person or entering into discussions or negotiations with any such Person regarding such Acquisition Proposal, its Board of Directors notifies WAXS promptly of such inquiries, proposals or offers received by, any such information requested from, or any such discussions or negotiations sought to be initiated or continued with, any of its representatives indicating, in connection with such notice, the name of such Person and the material terms and conditions of any inquiries, proposals or offers. STAR agrees that it will promptly keep WAXS informed of the status and terms of any such proposals or offers and the status and terms of any such discussions or negotiations. STAR agrees that it will, and will cause its officers, directors and representatives to, immediately cease and cause to be terminated any activities, discussions or negotiations existing as of the date of this Agreement with any parties conducted heretofore with respect to any Acquisition Proposal. STAR agrees that it will promptly inform its directors, officers, key employees, agents and representative of the obligations undertaken in this Section 5.4. Nothing in this Section 5.4 shall (x) permit STAR or WAXS to terminate this Agreement (except as specifically provided in Article VII hereof) or (y) affect any other obligation of STAR or WAXS under this Agreement.

5.5 Fees and Expenses. All Expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by the party incurring such Expenses. As used in this Agreement, "Expenses" includes all out-of-pocket expenses (including all fees and expenses of counsel, accountants, investment bankers, experts and consultants to a party hereto and its affiliates) incurred by a party or on its behalf in connection with or related to the authorization, preparation, negotiation, execution and performance of this Agreement and the transactions contemplated hereby.

5.6 Public Announcements. Neither WAXS nor STAR shall, without the prior consent of the other party, issue a press release or any other public statement with respect to this Agreement or the transactions contemplated hereby except pursuant to a joint communications plan, unless otherwise required by applicable law or by obligations pursuant to any listing agreement with, or rules of, any securities exchange, in which case the parties shall use reasonable efforts to consult with each other before issuing any press release or otherwise making any public statement with respect to this Agreement or the transactions contemplated hereby.

5.7 Listing. So long as WAXS Common Stock is quoted on the Nasdaq or listed on any national securities exchange, WAXS, prior to the Effective Time, will cause to be quoted or listed, upon official notice of issuance, and keep quoted or listed on such system or exchange, all WAXS Common Stock issuable pursuant to Article I hereof.

5.8 Termination of Tax Sharing Agreement. As of the Effective Time, STAR shall cause all Tax Sharing Agreements to which STAR or any of its Subsidiaries is a party to be terminated and of no further force and effect after the Effective Time, thereby extinguishing any rights or obligations of any party thereunder.

5.9 Management Services. Subject to obtaining any necessary regulatory or third party consents and to the extent permitted under applicable law, WAXS and STAR intend to enter into a management agreement pursuant to which WAXS will provide, under the supervision and direction of the STAR board of directors, certain management services to STAR. Neither party shall have any obligation under this Section 5.9 and the provision of the foregoing services shall be subject to the negotiation of a definitive agreement satisfactory to each of WAXS and STAR in its sole discretion.

5.10 New Director of WAXS. WAXS shall take all appropriate action such that, immediately following the Effective Time, and without further action by WAXS, one (1) designee of STAR shall be elected to the Board of Directors of WAXS. Such STAR designee shall be Christopher E. Edgecomb, or such other person designated by STAR and agreed to by WAXS prior to the Effective time.

5.11 Further Assurances. At and after the Effective Time, the officers and directors of the Surviving Corporation will be authorized to execute and deliver, in the name and on behalf of STAR or Merger Sub, any deeds, bills of sale, assignments or assurances and to take and do, in the name and on behalf of STAR or Merger Sub, any other actions and things to vest, perfect or confirm of record or otherwise in the Surviving Corporation any and all rights, properties, or assets acquired or to be acquired by the Surviving Corporation as a result of, or in connection with, the Merger.

5.12 Directors' and Officers' Indemnification and Insurance.

(a) From the Effective Time through the sixth (6<sup>th</sup>) anniversary of the date on which the Effective Time occurs, WAXS shall indemnify and hold harmless each present (as of the Effective Time) or former officer or director of STAR and its Subsidiaries (the "Indemnified Parties"), against all claims, losses, liabilities, damages, judgments, fines and reasonable fees, costs and expenses, including attorneys' fees and disbursements (collectively, "Costs"), incurred in connection with any claim, action, suit, proceeding or investigation, whether civil, criminal, administrative or investigative, arising out of or pertaining to (i) the fact that the Indemnified Party is or was an officer or director of STAR or any of its Subsidiaries or (ii) matters existing or occurring at or prior to the Effective Time (including this Agreement and the transactions and actions contemplated hereby), whether asserted or claimed prior to, at or after the Effective Time, to the fullest extent permitted under applicable law; provided that no Indemnified Party may settle any such claim without the prior approval of WAXS (which approval shall not be unreasonably withheld or delayed). Each Indemnified Party will be entitled to advancement of expenses incurred in the defense of any claim, action, suit, proceeding or investigation from WAXS within ten (10) business days of receipt by WAXS from the Indemnified Party of a request therefor; provided that any person

to whom expenses are advanced provides an undertaking, to the extent required by the DGCL, to repay such advances if it is ultimately determined that such person is not entitled to indemnification.

(b) WAXS shall maintain, at no expense to the beneficiaries, in effect for six years from the Effective Time the current policies of the directors' and officers' liability insurance maintained by STAR with respect to matters existing or occurring at or prior to the Effective Time (including the transactions contemplated by this Agreement); provided that WAXS may substitute therefor policies of at least the same coverage containing terms and conditions which are not materially less advantageous to any beneficiary thereof; and provided, further, that in no event shall WAXS be required to pay annual premiums for such insurance in excess of 125% of the annual premiums currently paid by STAR for such insurance.

(c) Notwithstanding anything herein to the contrary, if any claim, action, suit, proceeding or investigation (whether arising before, at or after the Effective Time) is made against any Indemnified Party, on or prior to the sixth (6<sup>th</sup>) anniversary of the Effective Time, the provisions of this Section 5.12 shall continue in effect until the final disposition of such claim, action, suit, proceeding or investigation.

(d) The covenants contained in this Section 5.12 are intended to be for the benefit of, and shall be enforceable by, each of the Indemnified Parties and their respective heirs and legal representatives and shall not be deemed exclusive of any other rights to which an Indemnified Party is entitled, whether pursuant to law, contract or otherwise.

(e) In the event that the Surviving Corporation or any of its successors or assigns (i) consolidates with or merges into any other Person and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) transfers or conveys all or substantially all of its properties and assets to any Person, then, and in each such case, proper provision shall be made so that the successors or assigns of the Surviving Corporation or the purchaser of such properties and assets shall succeed to the obligations set forth in this Section 5.12.

5.13 Confidentiality. The parties each agree that the Confidentiality Agreement shall continue in full force and effect until the Effective Time, and if this Agreement is terminated or if the Merger is not consummated for any reason whatsoever, such Confidentiality Agreement shall thereafter remain in full force and effect in accordance with its terms.

5.14 Compliance with Dissenters' Rights Statute. STAR shall comply with all procedures and requirements applicable to it under Section 262 of the DGCL.

5.15 Interim Financing. The parties have agreed that WAXS will make available up to \$25,000,000 in secured financing to STAR and up to \$10,000,000 in secured financing to STAR's subsidiary, STAR Telecommunications GmbH, (collectively, the "Interim Financing") pursuant to the terms of the Loan Documents (as defined below). The Interim Financing will mature at the earlier of one year from the date hereof and ninety (90) days after any termination of this Agreement

(other than a termination due to STAR's breach or default under this Agreement which will result in the Interim Financing becoming immediately due and payable). The Interim Financing will be made pursuant to, and subject to the finalization of, appropriate loan and security documents (the "Loan Documents") substantially in the form of, and as contemplated by, the draft Loan Documents distributed to STAR on or prior to the date hereof.

## ARTICLE VI

### CONDITIONS PRECEDENT

6.1 Conditions to Each Party's Obligation to Effect the Merger. The respective obligations of STAR and WAXS to effect the Merger are subject to the satisfaction or waiver on or prior to the Closing Date of the following conditions:

(a) HSR Act. The waiting period (and any extension thereof) applicable to the Merger under the HSR Act shall have been terminated or shall have expired.

(b) Stockholder Approval. WAXS shall have obtained the Required WAXS Vote in connection with the approval of this Agreement and the Merger and STAR shall have obtained the Required STAR Vote in connection with the approval of this Agreement and the Merger.

(c) Registration Statement. The Registration Statement shall have been declared effective by the SEC under the Securities Act. No stop order suspending the effectiveness of the Registration Statement shall have been issued by the SEC and no proceedings for that purpose shall have been initiated or, to the Knowledge of WAXS or STAR, threatened by the SEC.

6.2 Additional Conditions to Obligations of WAXS. The obligations of WAXS to effect the Merger are subject to the satisfaction of, or waiver by WAXS, on or prior to the Closing Date of the following conditions:

(a) Representations and Warranties. Each of the representations and warranties of STAR set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent in either case that such representations and warranties speak as of another date, in which case any such representations and warranties shall be true and correct as of such date), except where any failures to be true and correct would not have a Material Adverse Effect on WAXS or the Surviving Corporation, and WAXS shall have received a certificate of the chief executive officer and the chief financial officer of STAR to such effect.

(b) Performance of Obligations of STAR. STAR shall have performed or complied in all material respects with all material agreements and covenants required to be performed by it under this Agreement at or prior to the Closing Date, and WAXS shall have received a certificate of the chief executive officer and the chief financial officer of STAR to such effect.

(c) Consents and Approvals. Other than the filing provided for under Section 1.3, all consents, approvals and actions of, filings with and notices to any Governmental Entity required to consummate the Merger and the other transactions contemplated hereby, or of any other third party required of STAR or any of its Subsidiaries to consummate the Merger and the other transactions contemplated hereby, the failure of which to be obtained or taken would have a Material Adverse Effect on WAXS or the Surviving Corporation, shall have been obtained; provided, however, that the provisions of this Section 6.2(c) shall not be available to WAXS, if its failure to fulfill its obligations pursuant to Section 5.3 shall have been the cause of, or shall have resulted in, the failure to obtain such consent or approval.

(d) No Material Change. STAR and its Subsidiaries, taken as a whole, shall not have suffered, since the date hereof, a Material Adverse Effect, other than any change, circumstance or effect relating (i) to the economy or financial markets in general, (ii) in general to the industries in which STAR operates and not specifically relating to STAR or (iii) the trading price of STAR Common Stock.

(e) Opinion of Counsel to STAR. WAXS shall have received from Riordan & McKinzie an opinion, dated the Closing Date, in form and substance reasonably satisfactory to WAXS.

(f) No Injunctions or Restraints; Illegality. No laws shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other Governmental Entity of competent jurisdiction shall be in effect (i) having the effect of making the Merger illegal or otherwise prohibiting consummation of the Merger or (ii) which otherwise would have a Material Adverse Effect on WAXS or the Surviving Corporation; provided, however, that the provisions of this Section 6.2(f) shall not be available to WAXS if its failure to fulfill its obligations pursuant to Section 5.3 shall have been the cause of, or shall have resulted in any such order or injunction.

(g) Dissenters' Rights. STAR shall have complied with all procedures and requirements applicable to it under Section 262 of the DGCL, the period for exercising dissenters' rights of appraisal pursuant to the DGCL in connection with the Merger shall have expired, and holders of less than one percent (1%) of the shares of STAR Common Stock issued and outstanding immediately prior to the Closing shall have exercised such dissenters' rights of appraisal, and WAXS shall have received a certificate from an officer of STAR to all such effects.

(h) Sale of PT-1. STAR shall have consummated the sale of the capital stock of PT-1 Communications, Inc. ("PT-1"), or the assets of PT-1 on a substantially equivalent basis, for Net PT-1 Sale Proceeds (as defined in Section 8.12 ) of at least \$150,000,000 pursuant to an agreement in form and substance reasonably satisfactory to WAXS (the "PT-1 Sale"); provided, however, if (i) the PT-1 Sale has not been consummated prior to the Closing Date, (but STAR has entered into a definitive agreement, in form and substance satisfactory to WAXS, for the PT-1 Sale)



and (ii) WAXS determines in its sole discretion to waive compliance with this Section 6.2(h) and proceed with the Merger, then WAXS and STAR agree that in such event, they shall amend this Agreement to provide that (A) the formula used to determine the Exchange Ratio shall be modified by deleting "Z" therefrom and (B) a holder of STAR Common Stock and STAR Stock Options immediately prior to the Effective Time shall have a right to receive such holder's pro rata share of an aggregate number of additional "contingent" shares of WAXS Common Stock, if and when the PT-1 Sale is consummated pursuant to such definitive agreement (or, in the case of a holder of STAR Stock Option, when such option is exercised), equal to the PT-1 Excess Proceeds divided by twenty (20) (the "Contingent Shares") and that the provisions of any such amendment to this Agreement concerning the issuance of such Contingent Shares will satisfy the requirements of Section 3.03 of IRS Revenue Procedure 77-37, as it has been amplified and superseded, which established the circumstances under which the Internal Revenue Service previously issued advanced rulings on contingent stock arrangements in mergers intended to qualify as "reorganizations" under Section 368(a) of the Code.

(i) STAR shall have provided evidence satisfactory to WAXS that any and all obligations of STAR (or any of its affiliates) relating to or arising in connection with the China-U.S. Cable Network were fully satisfied by the reclamation of STAR's capacity in such network and neither STAR nor any of its affiliates has any further obligation or liability with respect thereto, including without limitation payment of the amounts claimed and owing by STAR according to that letter dated January 11, 2000 from Kou Yinsen, Director, CBP to Jim Kolsrud.

6.3 Additional Conditions to Obligations of STAR. The obligations of STAR to effect the Merger are subject to the satisfaction of, or waiver by STAR, on or prior to the Closing Date of the following additional conditions:

(a) Representations and Warranties. Each of the representations and warranties of WAXS set forth in this Agreement shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of the Closing Date (except to the extent in either case that such representations and warranties speak as of another date, in which case any such representations and warranties shall be true and correct as of such date), except where any failures to be true and correct would not have a Material Adverse Effect on WAXS, and STAR shall have received a certificate of the chief executive officer and the chief financial officer of WAXS to such effect.

(b) Performance of Obligations of WAXS. WAXS shall have performed or complied in all material respects with all material agreements and covenants required to be performed by it under this Agreement at or prior to the Closing Date, and STAR shall have received a certificate of the chief executive officer and the chief financial officer of WAXS to such effect.

(c) Consents and Approvals. Other than the filing provided for under Section 1.3, all consents, approvals and actions of, filings with and notices to any Governmental Entity required to consummate the Merger and the other transactions contemplated hereby, or of any other third

party required of WAXS or any of its Subsidiaries to consummate the Merger and the transactions contemplated hereby, the failure of which to be obtained or taken would have a Material Adverse Effect on WAXS, shall have been obtained; provided, however, that the provisions of this Section 6.3(c) shall not be available to STAR if its failure to fulfill any of its obligations pursuant to Section 5.3 shall have been the cause of, or shall have resulted in, the failure to obtain such consent or approval.

(d) No Material Change. WAXS shall not have suffered, since the date hereof, a Material Adverse Effect, other than any change, circumstance or effect relating (i) to the economy or financial markets in general, (ii) in general to the industries in which WAXS operates and not specifically relating to WAXS or (iii) the trading price of WAXS Common Stock.

(e) Opinion of Counsel to WAXS. STAR shall have received from Long Aldridge & Norman LLP an opinion, dated the Closing Date, in form and substance reasonably satisfactory to STAR.

(f) No Injunctions or Restraints; Illegality. No laws shall have been adopted or promulgated, and no temporary restraining order, preliminary or permanent injunction or other order issued by a court or other Governmental Entity of competent jurisdiction shall be in effect (i) having the effect of making the Merger illegal or otherwise prohibiting consummation of the Merger or (ii) which otherwise would have a Material Adverse Effect on WAXS after giving effect to the Merger; provided, however, that the provisions of this Section 6.3(g) shall not be available to STAR if its failure to fulfill its obligations pursuant to Section 5.3 shall have been the cause of, or shall have resulted in any such order or injunction.

(g) Exchange Fund. An officer of the Exchange Agent shall have certified in writing to STAR that the deposit required to be made by WAXS into the Exchange Fund pursuant to Section 2.1 has been made in connection with the establishment thereof.

## ARTICLE VII

### TERMINATION AND AMENDMENT

7.1 Termination. This Agreement may be terminated at any time prior to the Effective Time, by action taken or authorized by the Board of Directors of the terminating party or parties:

(a) By mutual written consent of WAXS and STAR;

(b) By either WAXS or STAR, if the other party shall have failed to comply in any material respect with any of its material covenants or agreements contained in this Agreement, which failure to so comply has not been cured within ten (10) business days following receipt by such other party of written notice of such failure to comply; provided, however, that if any such

breach is curable by the breaching party through the exercise of the breaching party's reasonable efforts and for so long as the breaching party shall be so using its reasonable efforts to cure such breach, the non-breaching party may not terminate this Agreement pursuant to this paragraph; and provided, further, that no party shall have the right to terminate this Agreement pursuant to this Section 7.1(b) if such party is then failing to comply in any material respect with any of its covenants or agreements contained in this Agreement;

(c) By either WAXS or STAR, if there has been a breach by the other party of any representations or warranties, which breach has not been cured within ten (10) business days following receipt by such other party of written notice of such failure to comply; provided, however, that if any such breach is curable by the breaching party through the exercise of the breaching party's reasonable efforts and for so long as the breaching party shall be so using reasonable efforts to cure such breach, the non-breaching party may not terminate this Agreement pursuant to this paragraph; and provided further, that this provision shall not apply to such breaches which would not have a Material Adverse Effect on WAXS or the Surviving Corporation;

(d) By either STAR or WAXS, if the Effective Time shall not have occurred on or before September 30, 2000 (the "Termination Date"); provided, however, that the right to terminate this Agreement under this Section 7.1(d) shall not be available to any party whose action or failure to fulfill any obligation under this Agreement has been the cause of, or resulted in, the failure of the Effective Time to occur on or before the Termination Date and any such action or failure constitutes a breach of this Agreement by such party;

(e) By either STAR or WAXS if any Governmental Entity (i) shall have issued an order, decree or ruling or taken any other action (which the parties shall have used their reasonable efforts to resist, resolve or lift, as applicable, in accordance with Section 5.3) permanently restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement, and such order, decree, ruling, or other action shall have become final and nonappealable or (ii) shall have failed to issue an order, decree or ruling or to take any other action (which order, decree, ruling or other action the parties shall have used their reasonable efforts to obtain, in accordance with Section 5.3), which, in the case of each of (i) and (ii) is necessary to fulfill the conditions set forth in Section 6.2(f) with respect to WAXS or Section 6.3(g) with respect to STAR, and such denial of a request to issue such order, decree, ruling or take such other action shall have become final and nonappealable; provided, however, that the right to terminate this Agreement under this Section 7.1(e) shall not be available to any party whose action or failure to fulfill any obligation under this Agreement has been the cause of such action or inaction and any such action or failure constitutes a breach of this Agreement by such party;

(f) By WAXS or STAR if the adoption of this Agreement by the stockholders of WAXS or the stockholders of STAR shall not have been obtained by reason of the failure to obtain the Required WAXS Vote or the Required STAR Vote, as applicable, in each case upon the taking of such vote at a duly held meeting of stockholders of WAXS or STAR, or at any adjournment thereof;